

Amendment 1/18/2005
1

Application 10/708,898

1/17/2005

Date: 1/14/05

Subject: Rejection for the Application 10/708,898, reply #2.

Dear Mr. Miska,

In the view of your suggested references about pre-programmed buttons, more specifically patents #5,854,774 and 4,451,158, and 5,438,555, please, accept my comments concerning the references and revisions of my claims.

Please, allow me to comment on each of the above and then state my claims.

#5,854,774:

- The device is too complicated to use for an average user at a fitness club.
- There is no mention about using it as a rest timer.
- It uses LED displays instead of LCD display and thus consumes a lot of power making it a high maintenance device for fitness clubs.
- Does not have a way to preset arbitrary time, only preprogrammed buttons of 1,2,5,20, 30, 60.
- There is no mention of attaching it to the frame of the equipment or a wall in the fitness club.
- The device is not designed to be used as a rest timer and cannot be used as a rest timer.
- Does not decrement in seconds and cannot be used as a rest timer, because fitness exercise to be effective uses rest time is in order of seconds.

#4,451,158:

- The device is too complicated to use for an average user at a fitness club.
- Does not have a way to preset arbitrary(custom) time.
- There is no mention about using it as a rest timer.
- There is no mention of attaching it to the frame of the equipment or a wall in the fitness club.
- No mention of power saving computer program.
- The device is not designed to be used as a rest timer and cannot be used as a rest timer.
- Does not decrement in seconds and cannot be used as a rest timer, because fitness exercise to be effective uses rest time is in order of seconds.

#5,438,555:

- There is no mention about using it as a rest timer.
- There is no mention of attaching it to the frame of the equipment or a wall in the fitness club.
- Does not have a way to preset arbitrary (custom) time.

1/17/2005

2

Application 10/708,898

- The device is not designed to be used as a rest timer and cannot be used as a rest timer.
- Does not decrement in seconds and cannot be used as a rest timer, because fitness exercise to be effective uses rest time is in order of seconds.

In summary:

- None of the references mention about using it at fitness club by plurality of users.
- None of the references mention usage of the device as a rest timer.
- None of the references use the device to mount on the frame of the existing fitness equipment.
- None of the references use power saving program to allow long battery lifetime.
- None of the references decrement in seconds and cannot be used as a rest timer, because fitness exercise to be effective uses rest time is in order of seconds.

In light of the above as well of my previous comments, allow me to re-state my claims.

I was not sure whether my 1st response regarding Kelsey patent was satisfactory, so I include the following claims. Boldface text indicates the change from the original claim.

1. A method and apparatus to track rest time during a fitness exercise **where the said device attaches to a frame of existing fitness club equipment or a structural wall** and the said device comprises:

LCD display with a driver,

Preprogrammed buttons for 30 seconds, 60 seconds, 90 seconds, and 120 seconds rest time

Up/down increment/decrement buttons to set custom rest time

Audio device,

An enclosure,

A battery holder,

Two AAA batteries,

A microprocessor,

A program executing on a microprocessor and controlling, LCD display, buttons, audio signal, countdown in seconds and battery power saving.

2. Delete

3. A method and apparatus in claim 1, where a user-friendly interface layout for set up and viewing is used comprising:

Large LCD digits

Buttons with **preprogrammed** popular rest times to allow one button set up

Ability to set custom rest time with two buttons

Easy battery replacement

Automatic **return** to a default or custom time at the end of countdown after audio

alarm

Start at default value or custom value

01/18/2005 11:21 215-860-3398

PAGE 03

PAGE 3/3 * RCVD AT 1/17/2005 10:21:08 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/24 * DNIS:2732108 * CSID:215 860 3398 * DURATION (mm-ss):01-56